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SENATE BILL 470

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO PUBLIC LANDS; ADDRESSING REFUNDS FOR ERRONEOUS  
PAYMENTS; PROVIDING FOR LIMITATION OF ACTIONS; MAKING AN  
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 19-7-59 NMSA 1978 (being Laws 1931,  
Chapter 99, Section 1, as amended) is amended to read:

"19-7-59. REPAYMENT OF MONEY ERRONEOUSLY PAID ON LEASE OR  
PURCHASE CONTRACT AFTER DISTRIBUTION.--

A. The duties, responsibilities and activities of  
the commissioner of public lands and lessees of state trust  
land and minerals set out in this section shall be performed in  
a timely manner.

~~[A. Any]~~ B. Money erroneously paid on account of  
~~[any]~~ a lease or sale of state lands, which money is not

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1 carried in ~~[any]~~ a suspense fund but has been distributed to  
2 the proper income or permanent fund, shall be repaid in the  
3 manner prescribed in this section.

4 ~~[B.]~~ C. If the money erroneously paid was for  
5 royalty due under ~~[any]~~ a lease, then, subject to a subsequent  
6 audit by the commissioner of public lands or ~~[his]~~ the  
7 commissioner's agent, the ~~[money may be recouped]~~ lessee may  
8 either request a refund or may recoup the money by deducting an  
9 equivalent amount from subsequent royalty payments due for the  
10 same lease and any other lease with the same trust beneficiary;  
11 provided that if the amount erroneously paid pursuant to this  
12 subsection is greater than twenty-five thousand dollars  
13 (\$25,000) for ~~[any]~~ a lease, ~~[then]~~ no deduction from  
14 subsequent payments shall be made without the prior approval of  
15 the commissioner of public lands; and, provided further that,  
16 no deduction from subsequent payments shall be made after six  
17 years from the date on which the royalty obligation became due.

18 ~~[C.]~~ D. If the amount of money erroneously paid is  
19 less than ~~[two thousand dollars (\$2,000)]~~ ten thousand dollars  
20 (\$10,000), then, after a claim has been filed pursuant to  
21 Section 19-7-60 NMSA 1978 and approved by the commissioner of  
22 public lands, no court action shall be necessary and a refund  
23 shall be made under Section 19-7-62 or 19-7-63 NMSA 1978.

24 ~~[D.]~~ E. All other money erroneously paid shall be  
25 refunded pursuant to the provisions of Sections 19-7-60 through

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1 19-7-63 NMSA 1978."

2 Section 2. Section 19-7-60 NMSA 1978 (being Laws 1931,  
3 Chapter 99, Section 2, as amended) is amended to read:

4 "19-7-60. CLAIM FOR REFUND--CONTENTS--TIME LIMIT--NOTICE  
5 OF ERRONEOUS PAYMENT--LIMITATION OF ACTION.--~~[Any]~~ A person  
6 claiming a refund under the provisions of ~~[this act]~~ Sections  
7 19-7-59 through 19-7-63 NMSA 1978 shall file with the  
8 commissioner of public lands a written claim for refund,  
9 stating ~~[therein]~~ the amount claimed to have been erroneously  
10 paid ~~[the fund or funds to which such payment was credited]~~ and  
11 the reasons why such payment was erroneously made. ~~[All claims~~  
12 ~~for refund of money shall be filed within ninety days after~~  
13 ~~notice. Notice of the]~~ If an erroneous payment of any money is  
14 discovered by the commissioner of public lands, notice of the  
15 discovery shall be given by the commissioner of public lands,  
16 as soon after ~~[its]~~ the discovery as ~~[may be]~~ possible, by  
17 registered mail to the last recorded address of the person  
18 making ~~[such]~~ the erroneous payment. ~~[All claims for refund~~  
19 ~~not filed with the commissioner of public lands within the time~~  
20 ~~prescribed herein]~~ In order to receive a refund pursuant to  
21 this section, the person making a claim for a refund must  
22 complete and submit the claim documentation within ninety days  
23 from the date the person knew or should have known of the  
24 erroneous payment or the date the commissioner of public lands  
25 mailed a notice of the erroneous payment to the person,

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1 whichever date is earlier. A claim for a refund that is not  
2 filed with the commissioner of public lands within six years  
3 from the date the erroneous payment was made shall be forever  
4 barred."

5 Section 3. Section 19-7-62 NMSA 1978 (being Laws 1931,  
6 Chapter 99, Section 4, as amended) is amended to read:

7 "19-7-62. ANNUAL APPROPRIATION FOR REFUNDS--PAYMENT FROM  
8 STATE LANDS MAINTENANCE FUND.--There is [~~hereby~~] appropriated  
9 annually out of the state lands maintenance fund created by  
10 Section 19-1-11 NMSA 1978 the sum of [~~two hundred thousand~~  
11 ~~dollars (\$200,000)~~] five hundred thousand dollars (\$500,000) or  
12 such part thereof as may be necessary for the purpose of making  
13 refunds of payments determined in the manner [~~hereinabove~~]  
14 provided by Sections 19-7-59 through 19-7-63 NMSA 1978 to have  
15 been erroneously collected; provided, however, that any refund  
16 of money paid into any fund other than the state lands  
17 maintenance fund shall be made only out of that part of the  
18 state lands maintenance fund distributable to the fund into  
19 which such payment was erroneously made, under the provisions  
20 of Section 19-1-13 NMSA 1978."

21 Section 4. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2007.